

State Liability Relief

For municipalities, economic development organizations, private parties

- Covenants Not To Sue
- Third-party liability relief
- Abandoned Brownfield Cleanup Program
- Brownfield Remediation and Redevelopment Program
- Municipal Brownfields Liability Relief



Covenants Not To Sue

- When?- after submitting *Brownfield Investigation Plan and Remediation Schedule*
- CGS §22a-133aa: transferable, many protections, costs 3% of property value
 - *Free for municipalities; other parties may schedule payments over time*
- §22a-133bb: non-transferable, less protections, free



Third Party Liability Relief

Third-party liability limited for non-responsible parties that own a contaminated property and investigate and remediate such properties

CGS §22a-133ee- No owner shall be liable for any costs or damages to any person other than this state, any other state or the federal government, with respect to any pollution or source of pollution on or emanating from such owner's real property that occurred or existed prior to such owner taking title to such property



Innocent Land Owners

CGS § 22a-452d & 22a-452e

- Innocent Land Owners not liable for State actions taken to contain, remove or mitigate a spill
- Innocent Land Owners not liable for any order of the Commissioner issued on or before August 1990 to abate or remediate a spill or discharge
- Municipalities defined as innocent landowners



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Abandoned Brownfield Cleanup Program

- For properties unused or significantly underutilized for 5 years prior
- Redevelopment of regional or municipal benefit by non-responsible party
- No obligation to investigate/ remediate off-site
- Liability relief from state and third parties
- No fee, exempt from Property Transfer Act
- Must apply prior to property acquisition
- CGS §32-768



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Brownfield Remediation and Revitalization Program

- 32 properties per year admitted by DECD
- Must be bona fide prospective purchaser, innocent property owner or contiguous landowner
- No obligation to investigate and remediate off-site
- Liability relief from state or any third party
- Fee 5% of land value, exempt from Property Transfer Act
- CGS §32-769 (formerly called Section 17)



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Municipal Brownfields Liability Relief Program

- Open to municipalities or development corps that are not responsible parties
- Simple application submitted prior to acquisition
- State and third party liability relief, exemption from Property Transfer Act
- Not required to fully investigate or cleanup Brownfield but must be good stewards of land
- CGS § 22a-133ii



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Municipal Access Liability Relief CGS § 22a-133dd

- Any municipality, economic development entity, or LEP may enter a property to conduct an investigation without liability if:
 - Owner cannot be located,
 - Property encumbered by tax lien,
 - Notice of eminent domain filed,
 - Municipality finds investigation in public interest to determine if property should be redeveloped, or
 - Municipal official determines investigation necessary to assess potential risk to health or environment





What do You See?



This?



Or this?

Proposed city boat launch at former oil terminal- Norwich



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Questions?

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2014 Brownfield Client Workshop



Connecticut
still revolutionary